IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3810 OF 2004

Sipriyan Joseph D'Souza .. Petitioner

Versus

Vijaydurg Coop.Housing

Society Ltd. and Anr. .. Respondents.

Mr. A.K.Lulla for petitioner

Mr.S.H.Joshi for respondent No.1

Mr.I.R.Kulkarni for respondent No.2.

CORAM : A.M.KHANWILKAR, J.

DATE : AUGUST 27, 2004.

P.C.

1. Heard learned Counsel for the parties. I find no reason to interfere with the

discretionary orders passed by the Courts below. To get over this position, learned Counsel for the petitioner submits that the trial court granted limited relief to the respondent society but tyhe appeal court has granted wider relief by restraining the petitioner from changing the user of the flat premises occupied from residential to commercial till the disposal of the suit and such relief is mandatory in nature during the pendency of the suit. I find no substance in the submissions. Indeed, the trial court granted limited relief after having answered issues of prima facie case, balance of convenience and irreparable loss against the petitioner. The petitioner did not question the correctness of those findings in the appeal but it is the society which carried the matter in appeal asking for reliefs as prayed for in the application, Exh.5 and which reliefs have now been granted by the appellate court by considering materials on record. No fault can be found in the approach of

the appeal court in answering issues against the petitioner and consequently for granting interim relief, as has been granted. This is not a case for interference in exercise of writ jurisdiction. Petition is dismissed.

*****